IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1460 of 2002
To
FIRST APPEAL No. 1462 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KARSHANJI MATHURJI & 1 - Appellant(s)
Versus
SPL.LAQ OFFICER & 1 - Defendant(s)

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Appearance :
MR AJ PATEL for Appellant(s) : 1 - 2.
Ms.Krina P.Calla, learned AGP for Defendant(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 21/12/2006

COMMON ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. The grievance made by the claimants in the instant appeals filed under Section 54 of the Land Acquisition Act, 1894 (“the Act” for short) read with Section 96 of the Code of Civil Procedure, 1908 is that they should have been awarded compensation at the rate of Rs.50/- per sq.mt. for their acquired lands and not at the rate of Rs.48/- per sq.mt. by the Reference Court and that interest on the amount awarded under Section 23(2) and 23(1-A) of the Act should also have been awarded to them.

2. This Court has heard Mr.A.J.Patel, learned counsel for the claimants and Ms.Krina P.Calla, learned AGP for the respondents.

3. From the record of the case, it is evident that the lands of the appellants situated at village Serisha, Taluka Kalol, District Mehsana were acquired for the public purpose pursuant to publication of Notification issued under Section 4(1) of the Act in the Official Gazette on July 19,1990. The Land Acquisition Officer had awarded compensation to the claimants at the rate of Rs.3.60 Ps.per sq.mt. by his award dated February 29,1992. Feeling aggrieved, references were sought and the Reference Court awarded additional amount of compensation at the rate of Rs.44.40 Ps. per sq.mt. i.e. Rs.48/- per sq.mt. in all. The grievance of the claimants is that they should have been awarded compensation at the rate of Rs.50/- per sq.mt. and also should have been granted interest on the sums awarded under Section 23(2) and 23(1-A) of the Act.

4. Mr.A.J.Patel, learned counsel, on the instructions of the appellants states at the Bar that the claim made by the appellants that they should have been awarded compensation at the rate of Rs.50/- per sq.mt. i.e. additional compensation at the rate of Rs.2/-, over and above awarded by the Reference Court, is not pressed. As the said claim is not

pressed, the same is liable to be dismissed as not pressed.

5. As far as, interest on the amounts awarded under Section 23(2) and 23(1-A) of the Act is concerned, this Court finds that the five Judge Constitution Bench of the Supreme Court has ruled in Sunder v. Union of India, 2001(3) G.L.H.446 that the person entitled to the compensation awarded is also entitled to get interest on the aggregate amount, including solatium. Under the circumstances, this Court is of the opinion that the appeals deserve to be partly allowed by holding that the appellants are entitled to interest on the amounts awarded to them under Section 23(2) and 23(1-A) of the Act.

6. For the foregoing reasons, the appeals partly succeed. The claim advanced by the appellants that they should have been awarded in all compensation at the rate of Rs.50/- per sq.mt., instead of Rs.48/- per sq.mt., by the Reference Court is rejected as not pressed. It is held that the appellants would be entitled to interest on the amounts awarded under Section 23(2) and 23(1-A) of the Act. The appeals stand allowed to the extent indicated herein-above.

There shall be no orders as to costs. The Registry is directed to draw decree in terms of this judgment immediately.

(J.M.Panchal,J)

(Smt.Abhilasha Kumari,J)

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